

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DIVISION OF JUVENILE JUSTICE

Title 15, California Code of Regulations

**Sections 4845, 4846, 4847, 4848, 4848.5, 4849, 4850, 4851, 4852, 4853, 4900, 4926,
4927, 4929, 4935, 4936, 4937.5, 4938.5, 4939.5, 4940, 4961.1, 4977, 4977.5,
4977.6, 4977.7, 4978, 4979, 4980, 4980.5, 4981, 4982, 4983, 4983.5**

**Parole Violation, Detention, and Revocation; General Provisions; Rules of
Construction & Definitions; General Rules on Hearings; Appeals;**

Special Hearings & Actions in Institutions; and Parole Violation

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) Division of Juvenile Justice (DJJ) proposes to amend Sections 4845, 4846, 4847, 4848, 4849, 4850, 4851, 4900, 4926, 4927, 4929, 4935, 4936, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983, and adopt Sections 4848.5, 4852, 4853, 4935.5, 4937.5, 4938.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980, 4980.5, and 4983.5 of the California Code of Regulations (CCR), Title 15, Division 4 & 4.5 respectively, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

In October 2008, the United States District Court, for the Eastern District of California in L.H. vs. Schwarzenegger, Case No. 2:06-CV-02042-LKK-GGH, issued a stipulated order for permanent injunctive relief under which DJJ would revise the process for juvenile parole revocation.

The L.H. lawsuit challenged violations of juvenile parolees' rights under the due process clause of the Fourteenth Amendment of the United States Constitution, the Rehabilitation Act, and the Americans with Disabilities Act (ADA). The lawsuit asked the federal court to order the CDCR, DJJ, Board of Parole Hearings (BPH), and the Juvenile Parole Board (JPB) to bring juvenile parole revocation procedures into compliance with the Constitution and the ADA.

The L.H. lawsuit claims that the CDCR, DJJ, BPH, and JPB violated the Constitution and the ADA by failing to inform parolees of their rights and/or charges against them prior to seeking waivers or admissions, arresting and holding parolees for weeks or months without establishing any hearing to determine probable cause, and failing to give parolees enough notice of the charges against them before their revocation or "Morrissey" hearing (*Morrissey v. Brewer*, 408 U.S. 481 (1972)). Furthermore, CDCR, DJJ, BPH, and JPB failed to provide the help that parolees with disabilities and other special communication needs require to understand documents and forms, their rights and the charges against them, to speak on their own behalf, and to understand what was being said and done in the revocation process.

Section 1004, of the Welfare & Institutions (W&I) Code establishes that DJJ shall have charge of the persons committed to or confined in DJJ institutions and shall provide for their care, supervision, education, training, employment, discipline, and government. DJJ shall exercise its powers toward the correction of their faults, the development of their characters, and the promotion of their welfare. Section 1712 (b) of the W&I Code assigns responsibility to the CDCR to make and enforce all rules appropriate to the proper accomplishment of the functions of the DJJ.

In July 2005, Section 1710(a) of the W&I Code abolished the Youth and Adult Correctional Agency. The same provision then created the CDCR, consisting of the Division of Adult Operations, Division of Adult Programs, DJJ, Corrections Standards of Authority, BPH, State Commission on Juvenile Justice, Prison Industry and the Prison Industry Board.

Section 224.70(e) of the W&I Code states, “‘youth’ means any person detained in a facility of the Division of Juvenile Justice.” Per this section the DJJ will now identify a “ward” as a “youth.” “Youth” does not apply to juvenile parolees or juvenile parole violators.

SPECIFIC PURPOSE AND FACTUAL BASIS

The proposed text is to ensure parolees in DJJ, regarding parole violation, detention, and revocation are given due process under *Morrissey v. Brewer*, 408 U.S. 481 (1972), the right to counsel under *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), and appropriate accommodations in compliance with the Americans with Disabilities Act (ADA) and the Rehabilitation Act.

Sections 4845 through 4853 are being renumbered. Section 4846 is renumbered to Section 4845. Each following section is renumbered to the previous number. In addition, the following amendments are made:

Section 4845 is amended to delete the word “Youth Authority” and insert “Division of Juvenile Justice” to comply with Section 1703(c) of the W&I Code, which states “‘Youth Authority,’ ‘Authority,’ ‘authority,’ or ‘division’ means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.” The California Youth Authority by state law has been changed to the Division of Juvenile Justice. Delete the words “Ward” and insert “Youth” to comply with Section 224.70(e) of the W&I Code.

Section 4846 is amended to delete the word “Ward” and insert “Youth” to comply with Section 224.70(e) of the W&I Code.

Section 4847 is amended to delete the words “Ward” and insert “Youth” to comply with Section 224.70(e) of the W&I Code.

Section 4848 is amended to delete the word “Department” and insert “Division” to comply with Section 1703(c) of the W&I Code, which states “‘Youth Authority,’ ‘Authority,’ ‘authority,’ or ‘division’ means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.” The California Youth Authority by state law has been changed to the Division of Juvenile Justice. Delete the words “Ward(s)” and insert “Youth(s)” to comply with Section 224.70(e) of the W&I Code.

Section 4848.5 is adopted to add the following section: “The criteria to warrant an arrest and/or detention of a parolee are outlined in section 4978.” The section has been moved to Section 4978 under Detention to avoid an issue of duplicity in latter sections of the CCR.

Section 4849 is amended to delete “at the initiation of parole staff” and add after the word “hearing” “whereupon there is a proper showing by parole staff that detention criteria are met” to comply with the Final Stipulated Order for Permanent Injunctive Relief regarding the detention of a Parolee. Delete the word “Department” and insert “Division’s” to comply with Section 1703(c) of the W&I Code which states, “‘Youth Authority,’ ‘Authority,’ ‘authority,’ or ‘division’ means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.” The California Youth Authority by state law has been changed to the Division of Juvenile Justice. After the word “hours” add “and the parolee released from its custody within three (3) business days” and delete “or as specified by the Board” to comply with the Final Stipulated Order for Permanent Injunctive Relief regarding the detention of a Parolee.

Section 4850 – No changes have been made.

Section 4851 is amended to:

Subsection 4851 (a) is amended to replace the words “Notice to Parolee Awaiting Violation Action”, with the words, “Notice of Rights and Acknowledgement, Notice of Charges, and Request for Accommodation and Assistance” to comply with the final stipulated order for permanent injunctive relief regarding parole violation.

Subsection 4851 (b) is amended to add after the word “be”, “submitted to the Board for review within seven (7) business days from the date of the Division’s parole hold, or in the case of Not-in Custody violation reports within twenty (20) days of the Notice of rights and charges. Violation reports shall contain.”, and delete “available for Board review within time constraints fixed by the Board and contain, when appropriate:” to comply with the final stipulated order for permanent injunctive relief regarding the parole violation.

Subsection 4851 (c) is adopted to comply with the Stipulated Order for Permanent Injunctive Relief regarding the parole violation.

Subsection 4851 (d) is adopted to comply with the Stipulated Order for Permanent Injunctive Relief regarding the parole violation.

Subsection 4851 (e) is adopted to comply with the Stipulated Order for Permanent Injunctive Relief regarding the parole violation.

Section 4852 has been repealed. Section 4852 has been adopted with new language.

Section 4852 is adopted to add the following sections:

Subsection 4852 (a) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (b) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (c) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (d) is adopted to incorporate Sections 4977 through 4983.5 under Parole Violation avoiding an issue of duplicity in latter sections of the CCR.

Subsection 4852 (e) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (f) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (g) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (h) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (i) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (j) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Subsection 4852 (k) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding parole revocation.

Section 4853 has been repealed. Section 4853 has been adopted with new language.

Section 4853 is adopted to add the following sections:

Subsection 4853 (a) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (b) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (c) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (d) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (e) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (f) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (g) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (h) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (i) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Subsection 4853 (j) is adopted to incorporate Sections 4977 through 4983.5 under Parole Violation avoiding an issue of duplicity in latter sections of the CCR.

Subsection 4853 (k) is adopted to ensure compliance with the Stipulated Order for Permanent Injunctive Relief regarding the parole revocation extension process.

Section 4900 of the CCR is amended to update the definitions for terms used in connection with the JPB. Some definitions have been deleted, while others have been added in alphabetical order. In the heading, under Section 4.5, “Youthful Offender Parole Board” has been changed to “Juvenile Parole Board.”

Subsection 4900 (a) is amended to delete the term “Reserved.”

Subsection 4900 (b) (1), is amended to delete the term “Reserved.” It is now Subsection 4900 (a).

Subsection 4900 (b) (2) is amended and is now renumbered as 4900 (a) (1). In that definition, the word “ward” has been changed to “youth” per Section 224.70(e) of the W&I Code.

Subsection 4900 (b) (3) is repealed, because the definition for “board hearing coordinator” is now obsolete. The definition for “board coordinating parole agent” has been added under Subsection 4900 (a) (2).

Subsection 4900 (b) (4) is amended and is now renumbered as 4900 (a) (3).

Subsection 4900 (b) (5) is repealed because the definition for “detention hearing” is now obsolete. The definitions for “charges,” “charge section,” “confidential informant,” “confidential information,” “confidential witness,” “corrective action plan,” “date of discovery,” “day(s),” and “detention section” are added in Subsections 4900 (a) (4) through 4900 (a) (12), respectively.

Subsection 4900 (b) (6) is repealed because the definition for “director’s representative” is now obsolete. The definitions for “disability,” “Disciplinary Decision-Making System,” and “dismissal” are added in Subsections 4900 (a) (13) through 4900 (a) (15), respectively.

Subsection 4900 (b) (7) is repealed because the definition for “disposition hearing” is now obsolete. The definitions for “disposition section,” “dual commitment,” “effective communication,” “exit interview,” “expedited probable cause hearing,” and “fearful witness” are added in Subsections 4900 (a) (16) through 4900 (a) (21), respectively.

Subsection 4900 (b) (8) is amended and is now renumbered as Subsection 4900 (a) (22).

Subsection 4900 (b) (9) is repealed. The definition made reference to a W&I Code section that is obsolete. The definition for “good cause” is added in Subsection 4900 (a) (23).

Subsection 4900 (b) (10) is amended and is now renumbered as Subsection 4900 (a) (24). The definitions for “McPherson status,” “not in custody hearing,” “notice of charges,” “notice of conditions of parole,” “notice of rights,” “parole hold,” “parole placement plans,” “parole report,” “parole violator,” “preponderance of evidence,” “probable cause,” “probable cause hearing,” “projected board date,” “reasonable accommodation,” and “referee” are added in Subsections 4900 (a) (25) through 4900 (a) (39), respectively.

Subsection 4900 (b) (11) is amended and is now renumbered as Subsection 4900 (a) (40). The definition for “Return to Custody Assessment or Revocation Extension Assessment” is added in Subsection 4900 (a) (41).

Subsection 4900 (b) (12) is amended and is now renumbered as Subsection 4900 (a) (39). It was moved in order to keep the definitions in alphabetical order. The definitions for “revocation extension hearing,” “revocation extension probable cause hearing,” “revocation hearing,” “revocation proceeding/revocation process,” “revocation release

date,” “serious in-custody misconduct,” “sufficient offer of proof,” and “victim” are added in Subsections 4900 (a) (42) through 4900 (a) (49), respectively.

Subsection 4900 (b) (13) is repealed because the definition for “violation hearing” is now obsolete. The definitions for “violation levels,” “violation report,” and “willful program failure,” are added in Subsections 4900 (a) (50) through 4900 (a) (52), respectively.

Subsection 4900 (c) is repealed. The provision dealt with timelines and schedules being extended in case of any community crisis or emergency, but is now obsolete.

The Notes section of Section 4900 is amended to add a reference to W&I Code Sections 1725, and to eliminate references to W&I Code Sections 1717, 1721, and 1722, which no longer exist.

Subsection 4926 (a) is amended to delete the word “quorum” and replace with “board members,” and delete the word “concur” and replace with “agree.” This was necessary for clarity and simplicity.

Subsection 4926 (b) is amended to delete the words “The ward” and replace with “Youth” to be consistent with section 224.70(e) of the W&I Code.

Section 4927 Ward Appearance and Voice Recording of Hearings is amended to delete the word “Ward” and replace with “Youth” to be consistent with section 224.70(e) of the W&I Code, and delete the word “Voice” and replace with the word “Audio.” This was necessary for clarity.

Subsection 4927 (a) is amended to add the word “All” and delete the phrase “voice recorded on tape” and replace with “audio recorded,” delete the word “ward” and replace with “youth” to be consistent with section 224.70(e) of the W&I Code. Added “with the exception of Probable Cause Hearings” to the first sentence. Deleted “Annual reviews for wards on parole, annual and/or progress reviews for Youth Authority Wards housed at or committed to any non-Youth Authority facility need not be appearance hearings,” sentence unclear and is repeated in 4927(b)(2) and (4). Also to delete the word “ward” and replace with “youth,” to be consistent with section 224.70(e) of the W&I Code, and replace “ward” with “his/her,” also to add the phrase “attorney, and with the youth’s consent,” add “else” and delete “who is.”

Subsection 4927 (b) is amended to replace the word “ward” with the word “youth” to be consistent with section 224.70(e) of the W&I Code; also to replace “Youth Authority” with “Division of Juvenile Justice (DJJ)” to be consistent with section 1703(c) of the W&I Code. Added “with the exception of” and deleted “for those wards”

Subsection 4927 (b)(1) is amended to add “Youth” to the beginning of the sentence and to replace “Youth Authority” with the acronym “DJJ,” to be consistent with section 1703(c) of the W&I Code.

Subsection 4927 (b) (2) is amended to add “Youth” to the beginning of the sentence and to replace “Youth Authority” with the acronym “DJJ” to be consistent with section 1703(c) of the W&I Code.

Subsection 4927 (b) (3) is adopted to replace information contained in the deleted sentence in 4927(a), which now reads “Annual and/or progress reviews for youth on parole).

Subsection 4927 (c) is adopted to clarify the restrictions in (b) by adding “Subsection (b) does not apply to Revocation proceedings or Revocation Extension proceedings.”

Section 4929 is amended to replace the word “ward” with the word “youth” to be consistent with section 224.70(e) of the W&I Code.

Subsection 4929 (a) (1) is amended to delete the word “shall” and replace with “must.” This is necessary for simplicity and clarity

Subsection 4929 (a) (2) is amended to delete the word “shall” and replace with “must.” Also to add the sentence “Conduct prohibited by law is considered a parole violation, even if you are not charged or convicted in court.” This is necessary for simplicity and clarity.

Subsection 4929 (a) (3) is amended to delete the word “shall” and replace with “must,” delete the section “approved placement or leave the State of California without permission of” and add “house/ placement without prior permission of.” Also to add, “You shall not avoid parole supervision.” This is necessary for simplicity and clarity.

Subsection 4929 (a) (4) is amended to delete the word “shall” and replace with the word “must,” delete “evade parole supervision” and replace with “leave the State of California without the written permission of your parole agent, and you are required to return to the State of California within the timeframe specified. Timeframes for processing any violations of parole will not begin until you return to the State of California.” This is necessary for simplicity, clarity and consistency.

Subsection 4929 (a) (5) is amended to delete the phrase “shall not be a substantial danger to yourself or do anything which is a substantial danger to yourself or to the person or property of another”, and replace with “and your residence, and any other property under your control, may be searched with or without a warrant and with or without probable cause by a parole agent of the California Department of Corrections and Rehabilitation, a parole agent of the Juvenile Parole Board, and/or any peace officer at any time of day or night.” This is necessary for simplicity, clarity and consistency.

Subsection 4929 (a) (6) is amended to delete “and your residence and any property under your control may be searched without a warrant by a parole agent of the Department of the Youth Authority, parole agent of the Youthful Offender Parole Board,

or any peace officer,” and replaced with “must not own, possess, use, have under your control or have access to any deadly weapons, firearms (any kind of gun), knives (with blades longer than 2 inches) crossbow, explosive devices, tasers or ammunition.” This is necessary for simplicity, clarity and consistency.

Subsection 4929 (a) (7) is amended to delete “may not use, possess, sell, or have under your control any firearm if you have a felony conviction.,” and replace with “must not own, use, possess, or have under your control or have access to any simulated weapons, which would cause a reasonable person to believe that you are in possession of a deadly weapon, firearm, knife, explosive device or ammunition (i.e. toy guns, BB guns, Air Soft guns, plastic guns or knives, etc.).” This is necessary for simplicity, clarity and consistency.

Subsection 4929 (a) (8) is amended to delete and “shall abstain from the use of alcoholic liquor or beverages if you have been convicted of any of the offenses listed in Section 290 of the Penal Code,” and replaced with “must report all arrests/citations to your parole agent or his/her designee within one business day of such contact.” This was necessary for simplicity, clarity and consistency.

Subsection 4929(a) (9) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (10) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (11) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (12) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (13) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (14) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (15) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(a) (16) is adopted as part of the Conditions of Parole for clarity.

Subsection 4929(b) is amended to replace the word “the” with “an” and the word “ward” with “youth.” Also to add “/current violation, or future criminality broadly defined to take into account the youth’s entire social history.” And to delete “or documented behavior” to be consistent with section 224.70(e) of the W&I Code, and for simplicity, clarity and consistency.

Section 4935 is amended to change “Chairman” to “Executive Officer or his/her designee” as “Chairman” is no longer applicable, “ward” to “youth” per 224.70 (e) of the W&I code and add “Juvenile Parole” for clarification.

Section 4936 subsection (d) was relocated to subsection (g) with minor changes.

Section 4936 (a) is amended for clarity in the appeal process.

Section 4636 (b) is amended for clarity in the appeal process.

Section 4936 (c) is amended to be in compliance with the L.H. Injunction.

Section 4936 (d) is amended to be in compliance with the L.H. Injunction.

Section 4936 (e) is amended to be in compliance with the L.H. Injunction.

Section 4936 (f) is amended to be in compliance with the L.H. Injunction.

Section 4936 (g) is adopted for clarity in the appeal process.

Section 4937.5, Appeal Body for Parole Revocation Administrative Appeals, is adopted to clarify that these certain proceedings have one level of appeal.

Section 4938.5, Parole Revocation Administrative Appeal Time Limits, is adopted to state the appeals process for appeals relating to Parole Revocation and Revocation Extension proceedings.

Section 4938.5 (a) is adopted to clarify the timeframe of the appeals process.

Section 4938.5 (b) is adopted to clarify the timeframe of the appeals process.

Section 4938.5 (c) is adopted to clarify the timeframe of the appeals process.

Section 4938.5 (d) is adopted for clarification of the appeals process.

Section 4938.5 (e) is adopted to clarify the timeframe of the appeals process.

Section 4938.5 (f) is adopted to clarify the timeframe and process of re-hearings.

Section 4939.5 Authorized Actions Relating to Parole Revocation Administration Appeals, is adopted to identify what the Executive Officer is authorized to perform.

Section 4939.5 (a) is adopted for clarification of the Executive Officer or his/her designee's authority in deciding appeals.

Section 4939.5 (a) (1) is adopted for compliance with the L.H. Stipulation.

Section 4939.5 (a) (2) is adopted for compliance with the L.H. Stipulation.

Section 4939.5 (a) (3) is adopted for compliance with the L.H. Stipulation.

Section 4939.5 (b) is adopted for compliance with the L.H. Stipulation.

Section 4940 (a) is amended to change “Chairman” to “Executive Officer or his/her designee” as “Chairman” is no longer applicable and also clarifies “appeal” board order.

Section 4940 (b) is repealed because it no longer applies.

Section 4940 (b) (1) is repealed because it no longer applies.

Section 4940 (b) (2) is repealed because it no longer applies.

Section 4940 (b) (3) is repealed because it no longer applies.

Section 4940 (b) (4) is repealed because it no longer applies.

Section 4961.1 In-Custody Misconduct for Parole Violators is adopted to include the disciplinary decision making process for parole violators.

Subsection 4961.1 (a) is adopted to refer to Sections 4630-4654 of the Title 15 regulations that also apply to parole violators.

Subsection 4961.1 (b) is adopted to clarify that any revocation extension proceedings for parole violators should follow guidelines outlined in sections 4853 and 4977 (b) of the Title 15 regulations.

Subsection 4961.1 (c) is adopted to describe in which instance the Juvenile Parole Board (JPB) may extend a parole violator’s revocation release date.

Subsection 4961.1 (d) is adopted to notify the parole violator that he/she may waive the revocation extension hearing pending a District Attorney referral.

Subsection 4961.1 (d) (1) is adopted to clarify which waiver the parole violator use to waive the revocation extension hearing.

Subsection 4961.1 (d) (2) is adopted to clarify the type of behavior the parole violator must be charged with in order to file an optional waiver.

Subsection 4961.1 (d) (3) is adopted to clarify the number of days in which a hearing request must be made.

Subsection 4961.1 (d) (4) is adopted to state the procedures for scheduling an optional waiver review.

Subsection 4961.1 (e) is adopted to state that the DJPO will be responsible for dual jurisdiction cases if the parole violator is not housed in a DJJ facility.

Section 4977 is amended to change “ward” to “youth” to comply with W&I Code 224.70 (e).

Subsection 4977 (a) through (j) is repealed and Section 4977 (a) and (b) 1 through 12 are adopted to establish the rights every detained youth has in the Revocation and Revocation Extension processes.

Section 4977.5 is adopted to establish the rights of a parolee of who is not detained in custody on a DJJ parole hold while undergoing revocation proceedings.

Section 4977.6 is adopted to establish the rights to accommodations and assistance for parolees and parole violators with disabilities and effective communication needs during Revocation and Revocation Extension proceedings to ensure meaningful participation.

Section 4977.7 is adopted to establish remedies for late hearings in the parole revocation process.

Subsection 4978 (a) is amended to change “shall” to “may” to take away the definite requirement and leave the discretion to the Parole Agent or the Unit Supervisor.

Subsection 4978 (a) (1) is amended to delete partial text that was not necessary and add the word “a” to make the meaning complete.

Subsection 4978 (a) (2) is amended to delete partial text that was not necessary and add the word “a” to make the meaning complete.

Subsection 4978 (a) (3) is amended to delete partial text that was not necessary and add new text making a parolee’s risk of absconding from parole supervision a possible criterion for detention.

Subsection 4978 (b) (1) is amended to change the language to clarify when the Board may detain a parolee.

Subsection 4978 (c) (1) is repealed and new text is adopted to comply with the L.H. Injunction.

Subsection 4978 (c) (2) is adopted to comply with the L.H. Injunction.

Subsection 4978 (2) (A) is repealed and new text is adopted to comply with the L.H. Injunction.

Subsection 4978 (2) (B) is repealed and new text is adopted to comply with the L.H. Injunction.

Subsection 4978 (3) is repealed and new text is adopted to comply with the L.H. Injunction.

Subsection 4978 (3), (A), (B), (C) are repealed because the text is no longer relevant.

Subsection 4978 (d) is adopted to establish the process that applies to parolees when there are changes to conditions supporting detention.

Subsection 4978 (g) changed to (e) to continue after the previous letter (d). The text is amended to change Youth Authority to Division of Juvenile Justice (DJJ) to comply with SB 737 which abolished CYA and renamed it CDCR, DJJ.

Subsection 4978 (g) (1) is amended to change the text for Youth Authority to Division of Juvenile Justice and to comply the SB 737 which abolished CYA and renamed it CDCR, DJJ.

Subsection 4979 is amended to add “Right to” to establish that every parolee has a right to legal counsel.

Section 4979 is repealed and a new section 4979 is adopted to establish that the Juvenile Parole Board shall appoint counsel to represent each and every youth in the Revocation and Revocation Extension processes.

Subsection 4979 (a) is adopted to establish the process for appointment of attorneys in the Revocation and Revocation Extension Process..

Subsection 4979 (a) (1) is adopted to comply with the L.H. Injunction.

Subsection 4979 (a) (2), (a), (b), (c) is adopted to comply with the L.H. Injunction.

Subsection 4979 (3) is adopted to comply with the L.H. Injunction.

Subsection 4979 (4) is adopted to comply with the L.H. Injunction.

Subsection 4979 (b) is adopted to comply with the L.H. Injunction.

Subsection 4979 (b) (1) is adopted to comply with the L.H. Injunction.

Subsection 4979 (b) (2) is adopted to comply with the L.H. Injunction.

Subsection 4979 (b) (3) is adopted to comply with the L.H. Injunction.

Subsection 4979 b (4) is adopted to comply with the L.H. Injunction.

Subsection 4980 (a) is adopted to describe Probable Cause Hearings.

Subsection 4980 (b) is adopted to describe Expedited Probable Cause Hearings.

Subsection 4980 (c) is adopted to describe Revocation Extension Probable Cause Hearings.

Subsection 4980 (d) is adopted to describe Revocation Extension Hearings.

Subsection 4980 (e) is adopted to describe Revocation Hearings.

Subsection 4980 (f) is adopted to describe the Revocation and Revocation Extension Hearing shall be audio recorded and a written record will be made.

Subsection 4980 text and subsections (a) through (g) are moved to Section 4980.5

Subsections 4980 (g) through (n) are repealed.

Section 4980.5 is adopted to establish the Rules for Parole Revocation Hearings.

Section 4980.5 text and letter (a) is moved from Section 4980.

Subsection 4980.5 (b) is amended to be in compliance with the L.H. Injunction.

Subsection 4980.5 (c) is amended to change the age for notifying a parent or guardian of a hearing from 18 to under 14 years of age.

Subsection 4980.5 (e) is amended to change Youth Authority to Division of Juvenile Justice to comply with SB 737.

Subsection 4980.5 (g) is amended to add “For Probable Cause Hearings” to clarify the type of hearing.

Subsection 4980.5 (h) is adopted to clarify a parolee’s right to subpoena and cross examine witnesses in a Revocation Hearing.

Subsection 4980.5 (i) is adopted to comply with the L.H. Injunction.

Subsection 4980.5 (j) is adopted to comply with the L.H. Injunction.

Subsection 4980.5 (k) is adopted to comply with the L.H. Injunction.

Subsection 4980.5 (l) is adopted to comply with the L.H. Injunction.

Subsection 4980.5 (m) is adopted to comply with the L.H. Injunction.

Subsection 4980.5 (n) is adopted to comply with the L.H. Injunction.

Section 4981 text is repealed.

Subsection 4981 (a) (1) and(2) are adopted to comply with the L.H. Injunction.

Subsection 4981 (a) is moved to (b) and amended to add “for a law violation” to clarify the type of probable cause.

Subsection 4981 (b) is changed to (c).

Subsection 4981 (c) is changed to (d). The text is amended to comply with the L.H. Injunction.

Subsection 4981 (d) is repealed.

Subsection 4981 (e), (1) and (2) are repealed.

Subsection 4981 (e) is adopted to comply with the L.H. Injunction.

Section 4982 is repealed and new Section 4982 is adopted to define the categories and levels of parole violations and to establish the standard of proof for finding a violation.

Section 4983 is repealed and new Section 4983 is adopted to describe the documenting and type of dispositions of parole violations.

Section 4983.5 is adopted to establish and explain the Optional Waiver process for a parolee who is in custody and undergoing criminal prosecution for the same behavior that is grounds for an alleged violation.

REASONABLE ALTERNATIVES

No other alternatives have been considered by the DJJ. The parole revocation process is governed by the L.H. Injunction and therefore, there are no alternatives to be considered.

REASONABLE ALTERNATIVES HAVING A SIGNIFICANT ADVERSE IMPACT ON BUSINESS

The DJJ has not identified any alternatives that would adversely affect the business community.

IDENTIFICATION OF STUDY, REPORT, OR DOCUMENT RELIED UPON

October 2008, United States District Court, *L.H. v. Schwarzenegger*, Case No. 2:06-CV-02042-LKK-GGH, Stipulated Order.